



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 2000

Joseph Milton, Registered Agent
Ocean Beach 167, Inc.
3211 Ponce De Leon Blvd., Ste. 301
Coral Gables, FL 33134

RE: MUR 5161
Ocean Beach 167, Inc.

Dear Mr. Milton:

On November 28, 2000, the Federal Election Commission found reason to believe that Ocean Beach 167, Inc. violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to Ocean Beach 167, Inc. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds Ocean Beach 167, Inc. that a corporation making a contribution or expenditure in connection with any election at which a Representative in Congress is to be voted for, or in connection with any primary election held to select candidates for this office, is a violation of 2 U.S.C. § 441b(a). Ocean Beach 167, Inc. should take steps to ensure that this activity does not occur in the future.

The file will be made public within 30 days after this matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remain in effect with respect to all respondents still involved in this matter. If you have any questions, please contact Eric Brown, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Darryl R. Wold".

Darryl R. Wold
Chairman

Enclosure
Factual and Legal Analysis

21.04.405.1074

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 5161

RESPONDENT: Ocean Beach 167, Inc.

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits corporations from contributing to political committees. 2 U.S.C. § 441b(a). Contributions that present genuine questions as to whether they were made by corporations may be, within ten days of receipt, either deposited or returned to the contributor. 11 C.F.R. § 103.3(b)(1). If deposited, the treasurer shall make best efforts to determine the legality of the contribution. *Id.* If the contribution cannot be determined to be legal, the treasurer shall refund the contribution within 30 days. *Id.*

The Commission's audit of Lincoln Diaz-Balart for Congress Committee ("the Committee"), undertaken in accordance with 2 U.S.C. § 438(b), revealed that Ocean Beach 167, Inc. made a contribution of \$1,000 to the Committee on November 26, 1997. This contribution was not refunded to Ocean Beach 167, Inc. until February 16, 2000. Therefore, there is reason to believe that Ocean Beach 167, Inc. violated 2 U.S.C. § 441b(a).

21-04-405-1075